IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

Bail Appl..No. 7584 of 2007()

CRIME NO.782/07 OF IRINJALAKUDA POLICE STATION, THRISSUR

.....

: PETITIONER/1ST ACCUSED

KANNAN @ SANGAMESWARAN, AGED 45,
S/O. SIVARAMAKRISHNA IYYER, PUTHUKUTTIMADOM,
ERUMATHADAM, VELLANKALLUR, THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS: STATE OF KERALA/COMPLAINANT

THE STATE OF KERALA, REP. BY
THE SUB INSPECTOR OF POLICE, IRINJALAKUDA POLICE
STATION, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.7584 of 2007

Dated this the 12th day of December, 2007

ORDER

Application for anticipatory bail. Petitioner faces allegations in a crime registered for offences punishable, inter alia, under Section 452 I.P.C. The crux of the allegation is that he along with 2 others (petitioner is the 1st accused) trespassed into the printing press of the defacto complainant and unleashed an attack against the defacto complainant. Prior animosity arising out of a suspicion that the defacto complainant had conveyed information to the police about the misdeeds of the petitioner and his friends in a neighbouring hall is the alleged motive. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. There is some strain in the relationship between the defacto complainant and the petitioner herein, who is employed as a watchman in a neighbouring marriage hall. Because of such animosity, false allegations are being raised against the petitioner, it is submitted.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are no circumstances which justify the invocation of the discretion under Section 438 Cr.P.C. The petitioner may be directed to resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail.

4. The learned counsel for the petitioner finally submits that the petitioner's state of health is precarious. The learned Magistrate may be directed to consider the state of health of the petitioner also while considering his application for regular bail, it is prayed.

5. Having considered all the relevant inputs, I am unable to perceive any features in this case which can justify or warrant the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. Different considerations will weigh with the Court while considering an application for regular bail. The petitioner can surrender before the learned Magistrate and urge before the learned Magistrate all circumstances which can entitle

him to the grant of bail under Section 437 Cr.P.C including his alleged poor state of health.

6. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-